

HOUSE No. 2858

By Mr. Walsh of Boston, petition of Martin J. Walsh and James E. Vallee relative to national criminal offender record information checks for persons working with individuals served by the Department of Mental Retardation. Mental Health and Substance Abuse.

The Commonwealth of Massachusetts

In the Year Two Thousand and Five.

AN ACT TO REQUIRE NATIONAL BACKGROUND CHECKS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Be it resolved that all staff who work with individuals served
2 by the Department of Mental Retardation are required to have
3 national criminal background checks. Criminal background verifi-
4 cation will be determined by cross-referencing fingerprints with
5 the National Instant Criminal Background Check System (NICS).
6 The Department of Mental Retardation will work cooperatively
7 with the Disabled Persons Protection Commission (DPPC) and
8 The Massachusetts State Police to implement national background
9 checks.

10 Staff will be subject to said criminal background checks when
11 seeking employment with those agencies that provide services
12 such as, but not limited to the following: residential, day and
13 transportation. It shall be the responsibility of the Commonwealth
14 to ensure that said criminal background checks are processed for
15 review prior to such a time that an individual begins unsupervised
16 work with any person served by the Department of Mental Retar-
17 dation.

18 Any employer who recklessly hires, retains or supervises an
19 employee whom the employer knows or should know will interact
20 with individuals served by DMR and poses a probable risk of
21 harm to an adult with mental retardation and by such hiring, reten-
22 tion or supervision permits the employee to criminally harm an
23 adult with mental retardation. These incidents of harm include but

24 are not limited to the following criminal acts: sexually exploit,
25 commit sexual assault, kidnap, stalk, or commit an assault and
26 battery on an adult with mental retardation that causes bodily
27 injury. Knowingly hiring dangerous individuals shall be punish-
28 able by a fine of not less than \$1000 nor more than \$10,000 or by
29 imprisonment for not less than one year nor more than ten years.